

REGIONALISATION AND FEDERALISATION: TRANSFORMING WAYS OF THE SUBNATIONAL GOVERNANCE

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Abstract

The Federalisation, regionalisation and local governance has been an important issue of the jurisprudence and administrative sciences. Although the differences of decentralised and federal systems have remained, several transformations could be observed and in several countries the model of the public administration has changed in the last decades. A convergence or hybridisation of the models can be observed: the competences of the municipal bodies have been strengthened. Although the boundaries between municipalities and member states of the federation have blurred in the governance of these entities, but the legal distinction between them remained solid: the regional municipalities with broad competences do not have statehood.

Keywords

Regionalisation, federalisation, European Union, subnational governance. local government

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1. INTRODUCTION

The analysis of the legal regulation on the spatial structure and the legal status of the subnational unit can be interpreted as a public law topic. In the literature, the *governance* of the subnational units has been analysed.² The majority of the literature on federalism, regionalisation (and regionalism) and local governance follows the political-economical approach. The comparative jurisprudential analyses on the administrative systems focuses on the legal phenomena. Thus the central topic of the jurisprudential approach is based on the examination of the administration of the federal units and the legal status of the autonomous bodies in the administrative systems. In the

² J. Loughlin, F. Hendriks, A. Lidström, *Introduction*, [in] *The Oxford Handbook of Local and Regional Democracy in Europe*, red. J. Loughlin, F. Hendriks, A. Lidström, Oxford, 2011, pp. 3–7.

comparative works the issues of *statehood* and *autonomy* are one of the elements of the comparison.³ The legal approach is an inevitable element of the political analyses and the jurisprudential approach has regards to the actual operation of the systems.

2. METHODS OF THE ANALYSIS AND THEORETICAL BACKGROUND

2.1. Methodological questions

The analysis is based on the jurisprudential method. The constitutional status, the division of the powers between national and subnational unites regulated by the public law, and the tasks of these bodies will be primarily analysed. After World War II and especially from the 1970s the autonomy of the subnational units has been became more significant by the regionalism and the regionalisation. In several countries the regional units have been strengthened and thus the boundaries between regional and federal units are blurred. Therefore the main phenomena in the field of the legal status and the actual operation of the subnational units is the *hybridity*. It is highlighted by John Loughlin that *hybrid* solutions have been evolved by the new models on regionalisation and the centralisation of several federal systems.⁴

Therefore the governance issues should be — at least partly — analysed by jurisprudential method. The jurisprudential approach has a very prominent role in the analysis and in the practice of the questions on federalism and regionalism.

2.2. Theoretical background

The *federalism* and the federalisation has a long tradition in the public law The traditional concept of federalism is connected to

³ P. M. Huber, *Grundzüge des Verwaltungsrechts in Europa — Problemaufriss und Synthese*, [in] *Handbuch Ius Publicum Europaeum. Band V. Verwaltungsrecht in Europa: Grundzüge*. Heidelberg, red. A. von Bogdandy, S. Cassese, P. M. Huber, Heidelberg, 2014, pp. 24–25.

⁴ J. Loughlin, *op. cit.* pp. 14–16.

statehood. The traditional approach of *local governance* is based on the self-governance and autonomy of the *infra-state local and territorial units*. The local governments have autonomy, which is granted by the constitutions or by the legislation, but they are units of the given state.⁵

The interpretation of these concepts has been changed by the transformation of the regional and federal units after the World War II. The greatest challenge of the traditional interpretation was the *regionalisation* and the *regionalism* and changing roles of the federal units. The differences between the Anglo-Saxon and South-American federations, the transformation of the traditional federations (especially Germany, Austria, Switzerland) in Europe and the federal processes resulted several researches in the field of the comparative politics – and partially in the field of the comparative jurisprudence.

The traditional – jurisprudential – classification was based on the relationship between the federal bodies and the bodies of their member states, and it was based on the share of powers and responsibilities between federal and (member) state level. Thus the *centralised* federalism was classified as a type of federalism which was based on the strong competences of the federal level. In the political sciences a similar concept has been evolved, this was the *organic federalism* which was based on the interdependence of the federal and the state and the centralisation of the powers to the federal tier. The “pair” of the organic federalism was the *dual federalism* which was based on the strong competences of the (member) state level and the unequivocal share of the competences.⁶ A new element of the federal reforms were the so called *asymmetrical federalism*. The traditional federal states were – primarily – based on the equality of the constituencies of the federations. Although it seems to be a general rule, the asymmetrical federalism has roots in the Middle Age and in the 19th century, as well. There were exceptions to this equality – thus the “symmetry”

⁵ See more C. Copus, M. Roberts, R. Wall, *Local Government in England. Centralisation, Autonomy and Control*, London, 2017, pp. 7–10. and G. Melis, A. Meniconi, *Autonomie und Selbstverwaltung als gemeineuropäischen Konzept*, [in] *Handbuch Ius Publicum Europaeum...* pp. 930–933.

⁶ W. Swenden, *Federalism and Regionalism in Western Europe*, Basingstoke (UK), New York (NY, USA), 2006, pp. 48–50.

of the federalism. The best example for the asymmetrical federation was Switzerland. The cantons have had different status, several cantons — the so called half-cantons — have had only limited powers. This asymmetrical system remained after the (trans)formation of the Swiss federation in 1847/48.⁷ Similarly, the Kingdom of Bavaria, the Kingdom of Württemberg, the Kingdom of Saxony and the Grand Duchy of Baden have certain privileges (*Sonderrechte, Reservatrechte*) within the German Empire (*Deutsches Reich*).⁸ Although the asymmetry of the status of the constituencies had examples, the main model was based on the equality of these units. In the 20th century several federalisation was based on the special status of the given member states, thus unequal, asymmetrical federations have been evolved.

The *regionalisation* has been transformed in Europe in the last decades. Several countries have been regionalised. The literature focused on those reforms by which regional municipalities with broad competences have been evolved and on those which resulted special units. Firstly, several regional units received new competences. As it will be shown the Italian regions received legislative competences. The legislation belongs to the competences of the state, therefore the Italian regions became an exception. The special rights of several regions were strengthened, thus politically — and partly, legally — *hybrid* models have been evolved which have been between federalism and regionalism.⁹

The concept of “territorial governance” is used as a common interpretation framework of federalism and regionalisation. The traditional boundaries — which have been determined by the legal regulation — have blurred in the last decades, especially after World War II. The *impact of the welfare state on the traditional territorial governance* have been multiple. Firstly, the federalism and the federal reforms have been facilitated by the differences in the field of welfare services. A federal structure could help to evolve different welfare models: thus the economical differences between the territorial units

⁷ J. Parker, *Comparative Federalism and Intergovernmental Agreements*, London (UK), New York (NY, USA), 2015, pp. 137–138.

⁸ M. Kotulla, *Deutsche Verfassungsgeschichte. Vom Alten Reich bis Weimar (1495–1934)*, Berlin, Heidelberg, 2008, p. 516.

⁹ J. Loughlin, *op. cit.*, 2013, pp. 14–16.

can be managed.¹⁰ This approach is strongly connected to the *fiscal federalism*, as well.¹¹ The evolvement of the welfare state has had an opposite effect, as well. In those federations where the welfare issue was very important and the welfare services were guaranteed by the federal constitutions, the federal competences have been widened.¹² The tendencies of the *asymmetrical* territorial reforms have been strengthened, as well. This trend was connected to the *ethnic element* of the federalisation and regionalisation, as well. For example the different legal status of the constituencies of the Russian Federation is based partly on the multinational character of Russia. Traditionally, those Russian constituencies which have a majority of non-Russian population have broader competences than the constituencies (“regions”) with Russian majority.¹³ The ethnic issue was an important element of the regionalisation procedures, as well. These – ethnically based – regional reforms could be turn into federal reforms: in Belgium the former regional entities became the member states of a federative state after the constitutional reform in 1993.¹⁴

A new model of the governance has been evolved by these territorial reforms: the multilevel governance which is based on the different competences and the cooperation with the different level units: these units could be member states of the federation and regional and local municipalities, as well.¹⁵ The regional – and partly the federal – reforms were strongly connected to the (regional) development issue. Especially, the European regional reforms have been stimulated by the

¹⁰ R. Simeon, *Federalism and Social Justice: Thinking Through the Tangle*, [in] *Territory, Democracy and Justice. Regionalism and Federalism in Western Democracies*, red. S. L. Greer, Basingstoke (UK), New York (NY, USA), 2006, p. 20.

¹¹ On fiscal federalism see more: W. E. Oates, *Fiscal Federalism*, New York (NY, USA), 1972.

¹² J. Loughlin, *op. cit.*, 2013, pp. 15–17.

¹³ R. Sakwa, *Devolution and Asymmetry in Russia*, [in] *Federalism beyond Federations. Asymmetry and Process in Resymmetrisation in Europe*, red. F. Requejo, K.-J. Nagel, Farnham (UK), Burlington (VT, USA), 2011, pp. 155–157.

¹⁴ Balázs I. *Belgium közigazgatása*, [in] *Az Európai Unió tagállamainak közigazgatása*, red. Szamel K., Balázs I., Gajduschek Gy., Koi Gy., Budapest, 2011, p. 276.

¹⁵ J. Loughlin, *op. cit.*, 2013, p. 16.

EU development policies.¹⁶ The regionalisation has been linked to the *decentralisation as a tool of the share of the powers. Regionalisation was primarily a top-bottom issue*. This approach was changed in the last decades of the 20th century and the approach of the *regionalism* has evolved, which based on an organic development of the regional units and the regional autonomy.

The territorial governance has been transformed in the last decades. As I have mentioned, the boundaries between the different forms of governance have blurred, hybrid solutions have evolved. In the following I would like to analyse the forms of the regional and federal reforms. I would like to analyse the impact of the hybridisation of the territorial governance on the regulation of the legal (constitutional) status of these territorial units, because this impact could be the key element of a comparative legal analysis.

2.3. Methods of comparison and the main models

Although the hybridisation has been a trend of the territorial reforms, the fundamental legal difference between the federalism and regionalisation remained in the legal regulation. The main element of the comparison is the legal regulation on the constitutional status. This analysis is based on the review of the trends on regionalisation. Therefore the approach of this presentation is based on the comparison of the *organisational questions*. Thus centralised and decentralised and symmetrical and asymmetrical federations will be compared. The regional systems will be shown by the organisational form of the regional entities, thus the special regionalised model, the municipal model, the inter-municipal model and the quasi regionalisation will be compared. Last but not least several “hybrid” models will be analysed: especially the British federal model and Spain’s quasi-federalism.

¹⁶ L. Bruszt, S. Palestini, *Regional Development Governance*, [in] *The Oxford Handbook on Comparative Regionalisation*, red. T. A. Börzel, T. Risse, Oxford, 2016, pp. 374–376.

3. THE MAIN MODELS OF THE FEDERATIONS

3.1. Decentralised federations

a) Decentralised, symmetrical federations

The federal models with shared competences between the federal level and the (member) state level is primarily followed in Europe by *Germany*. In the German — decentralised — federal system the states (provinces, *Länder*) have own legislation, executives and justice systems. Unlike the German Empire, the legal status of the provinces are basically equal. These provinces have unicameral (provincial) parliaments (*Landtag*) and a state government which is responsible to the provincial parliament.¹⁷ Germany followed the symmetrical, decentralised federal model of the *United States of America*, which was the pattern for the *dual federations*.

b) Decentralised, asymmetrical federations

Canada could be interpreted as a *decentralised, asymmetrical federation*. The asymmetrical nature of the Canadian federalism is based on the national (ethnic) issue. Province Québec which has a French-speaking majority has special rights and privileges, its competencies are stronger than the powers of the provinces with English-speaking majority. But the Canadian federation has become more centralised in the last decades, because of the welfare state services: the competences of the federal level have been strengthened by the development of the Canadian welfare state.¹⁸

3.2. Centralised federations

a) Centralised, symmetrical federations

This model is typical in the *smaller* federations, especially in Austria and Belgium. The member states of the Austrian federation,

¹⁷ S. Detterbeck, *Allgemeines Verwaltungsrecht mit Verwaltungsprozessrecht*, München, 2011, p. 58.

¹⁸ I. Peach, *Introduction — On Governing a Dynamic Federation, Constructing Tomorrow's Federalism. New Perspectives on Canadian Governance*, red. I. Peach, Winnipeg, 2007, pp. 5–8.

the provinces (*Bundesländer*) are NUTS-2 (“regional”) level entities.¹⁹ Therefore the competences of the municipalities is relatively limited, the federal level has strong powers.²⁰ *Belgium* has a similar system. The unitary Belgium became a regionalised state after the constitutional reform of 1970. The regionalised state developed into a federal state after the reforms of 1993 which was strengthened by the amendment of the Belgian Constitution in 2001.²¹

Although the centralised, symmetrical federation is typical in small federations, a large country could be included this model: *Australia*. However the Northern Territory and the Australian Capital Territory has a special status, Australia could be considered rather a symmetrical than an asymmetrical federation.²²

b) Centralised asymmetrical federations

In centralised, asymmetrical federation the federal level has broad competences, but the member states have diverse legal status. Typically, the asymmetrical nature of this federation is linked to the multinational nature of the federation. Thus Switzerland and — as I have it mentioned earlier — Russia can be interpreted²³ as such a country.

The legal status of the member states of the federations and the constitutional regulation on them are different. But it is common, that the federative nature of this countries is declared by the federal constitutions. Therefore the statehood of the constituencies is obvious — regardless of the extent of the responsibilities of the member states.

¹⁹ H. Neuhofer, *Gemeinderecht. Organisation und Aufgaben der Gemeinde in Österreich*, Wien, 1998, pp. 22–23.

²⁰ L. K. Adamovich, B. C. Funk, G. Holzinger, S. L. Frank, *Österreichisches Staatsrecht. Band 2: Staatliche Organisation*, Wien, 2014., pp. 60–61 and pp. 194–195.

²¹ Balázs, *op. cit.*, p. 276.

²² C. Saunders, *Australia: an ‘integrated’ federation?*, [in] *Routledge Handbook of Regionalism...* 2013, pp. 390–393.

²³ O. Chernenko, *The Case of “New Moscow”: Metropolisation as a Chance for a Local Government System*, [in] *Metropolisation, Regionalisation and Rural Intermunicipal Cooperation. What Impact on Local, Regional and National Governments in Europe?*, red. L. Malíková, F. Delaneuville, M. Giba, S. Guérard, Lille, 2018, pp. 350–351.

4. DIFFERENT TYPES OF REGIONAL STRUCTURES

The traditional regional model is based on large — typically 3rd tier — municipalities with broad competences. The reasons of the regional reforms were different. One major reason was the reform of the development system. Secondly, several regional reforms were impacted by the multinational issue. Thirdly, the division of the powers between the central and the regional level was a reason for the reforms, as well. Therefore, different regional models can be distinguished.

4.1. Municipal model

The regionalisation tendency was based on the establishment or strengthening of the 3rd tier local governments, the regions. The example of these reforms was the *French regional reform* from the 1960s to present. Although the feudal France was based on the regions, the revolutionary and Napoleonic legislation introduced a centralised state and they were abolished²⁴ and the new territorial units were the *départements*, the French counties. Although the regions as administrative units were abolished the regional differences remained. Thus the regionalisation became an issue after the World War II. In 1955 22 planning regions (*circonscriptions d'action régionale*) were established, but these regions were part of the top-down planning structure. The next step of the regionalisation was the establishment of the regional prefect (*préfet de région*) in 1964 when the county prefects of the seat of the given regions received regional competences. Thus the territorial agencies of the central government were partly regionalised.²⁵

The decentralised model evolved by the reforms of the *Loi Defferre* (1982) when the regional governments as 3rd tier local governments were established. Thus France have a two-tier regional government system: the first, lower tier is the level of the *départements* — which are NUTS-3 units — and the second, higher tier is the level of the regions —

²⁴ J. Swann, *Parlements and Provincial Estates*, [in] *The Oxford Handbook of the Ancien Régime*, red. W. Doyle, Oxford, 2012, p. 105.

²⁵ L. Hooghe, G. Marks, A. H. Schakel, S. Niedzwiecki, S. Chapman Osterkat, S. Shair-Rosenfield, Sara, *Measuring Regional Authority. A Postfunctional Theory of Governance, Volume I*, Oxford, 2016, p. 373.

which are NUTS-2 units. These regions have a directly elected council. The majority of the competences of the regional *préfet* were transferred to the president of the regional council.²⁶ One of the key issues of the French regional reforms was the decentralisation of the planning and development competences.²⁷ The regional — spatial — structure was significantly reformed in the last years: the former 21 mainland regions were merged into 12 mainland regions (the independent, special region status of Corsica and the five overseas regions were left unchanged). The powers of the regions have been strengthened by this reform.²⁸ *A decentralised, region-centred model has evolved in France.* This French model was an example for the European regional reforms, especially in those countries which have followed the French model of public administration.

In Germany, *Bavaria* has a special status: the Bavarian system can be interpreted as a *regionalised one*, because the Bavarian districts (*Bezirke*) are regional governments, which are primarily responsible for the regional planning and development.²⁹

Although several countries tried to introduce regional reforms in the Eastern Central European countries, the only successful reform was the regionalisation of Poland. The Polish model was based on the French decentralisation pattern, but it was different in some respect. The Polish model is a decentralised one.

Thus the municipal model was based on primarily the development approach, but in the last decades the role of the division of the powers between the national and regional level became more important.

4.2. Regionalised model

This model has evolved firstly in *Italy*. In the 19th century it was a strongly centralised, unitary state which was divided into provinces

²⁶ N. Dantonel-Cor, *Droit des collectivités territoriales*, Paris, 2007, pp. 35–38.

²⁷ P. Booth, *Controlling development. Certainty and discretion in Europe, the USA and Hong Kong*, London (UK), New York (NY, USA), 1996, p. 62.

²⁸ G. Marcou, *Où va le système français d'administration territoriale?*, [in] *Quelle organisation pour les grandes régions en France et en Europe?* red. J-C. Némery, Paris, 2015, pp. 26–30.

²⁹ T. Weber, V. Köppert, *Kommunalrecht Bayern*, Heidelberg, 2015, p. 27.

(*provincia/province*). Although the Italian state was centralised the regional differences and inequalities remained. The unitary nature of the Italian state has remained, the Republic of Italy is “one and indivisible” (“*una e indivisibile*”) but the local and regional government system has been transformed after the World War II. Although the provinces (*province*) have been conserved by the administrative law, the regions (*regione*) were established, which have now very wide autonomy. The speciality of the Italian model is that these regions have legislative powers. In Italy an asymmetrical regional system has evolved, because several regions have special status. *This special status is related to the ethnic diversity* (the German ethnic majority in *Alto-Adige/Südtirol* and the French ethnic majority in *Valle d’Aosta/Vallée d’Aoste*) and the traditional differences in Italy, especially the disparities between Northern and Southern Italy.³⁰ The significance of the regions have been strengthened after 2014 when the competences of the *province* were weakened by *legge Delrio (legge 7 aprile 2014, n 56)*.³¹ Thus Italy is a *regionalised state*, because the regions have more competences than a regional municipality but have less powers than the member states of a federative state.³²

A similar model has evolved in *Serbia*. The Republic of Serbia is interpreted as a unitary state, but the Northern part of the Republic, the *Autonomous Province of Vojvodina* is a regional entity with broad competences: it has a legislative body and an own government lead by a prime minister. The regional autonomy of Vojvodina was based on the multi-ethnic nature of the province.³³

³⁰ C. Franchini, G. Vesperini, *L’Organizzazione*, [in] *Istituzioni di diritto amministrativo*, red. S. Cassese, Milano, 2012, pp. 108–111.

³¹ T. Amorosi, P. Cinque, *Le Province: nuovo Ordinamento ed Organi — Funzioni*, [in] *Guida Normativa 2015*, red. F. Narducci, R. Narducci, Santarcangelo di Romagna, 2015, p. 367.

³² S. Mangiamelli, *The Regions and the Reforms: Issues Resolved and Problems Pending*, [in] *Italian Regionalism: Between Unitary Traditions and Federal Processes*, red. S. Mangiamelli, Cham, 2014, pp. 3–5.

³³ I. Pálné Kovács, *The development of regional governance in Central and Eastern Europe: trends and perspectives*, [in] *The Routledge Handbook to Regional Development in Central and Eastern Europe*, red. G. Lux, Gy. Horváth, London (UK), New York (NY, USA), 2017, pp. 150–152.

The evolvement of the regionalised model has been strongly impacted by the ethnic diversity of the given countries, but the development issues have been significant elements of the autonomy, as well.

4.3. Inter-municipal model of the regionalisation

In this model the regional units are typically *inter-municipal associations*, which have mainly *development* competences.

One of the most typical examples is the regulation of *Ireland*. The New Public Management paradigm and later the Good Governance paradigm impacted the Irish regional model:³⁴ the reforms in the 1990s aimed to decentralise the former centralised regional development system. Firstly, the municipalities were obliged to establish Local Development Boards which became the actors of the planning policy. In 2000 the City and County Development Boards were established which are the special committees of the given county and city local government, but they are guided by a member of the central government's Local Development Liaison Team.³⁵ In the 1990s — taking into account the regionalisation tendencies — two special bodies were established: the two regional assemblies, which are practically the managing authorities of the operative programs based on the European Regional Development Fund and the European Social Fund. These bodies are not considered as an independent regional tier by the Irish administrative law: the members of the assemblies are not elected but delegated by the municipalities and the county and city councils and they do not have general powers — unlike the Irish local governments.³⁶ Because of these special characteristics, these bodies can be interpreted as special

³⁴ M. MacCarthaigh, *Public Sector Reform in Ireland. Countering Crisis*. Cham, 2017, pp. 6–7.

³⁵ M. Adshead, *Policy networks and sub-national government in Ireland*, [in] *Public Administration and Public Policy in Ireland. Theory and Methods*, red. M. Adshead, M. Millar, London (UK), New York (NY, USA), 2003, pp. 119–122.

³⁶ M. Callanan, *Regional Authorities and Regional Assemblies*, [in] *Local Government in Ireland. Inside Out*, red. M. Callanan, J. F. Keogan, Dublin 2003, pp. 437–438.

inter-municipal associations of the Irish first and second tier local governments.

A similar model has evolved in *Portugal*. The Portugal inter-municipal regionalisation is linked to the development issue as well. Therefore the managing authorities of the regional development are practically inter-municipal associations of the second-tier local governments. Practically, this task was a catalyst of the inter-municipal cooperation in Portugal which has not long tradition in the Southwestern country of the European continent.³⁷

4.4. “Quasi-regionalisation”: regional units without self-governance and autonomy

In this model the planning is centralised, the major decisions are made by the central government. The *Czech* model is a transition to the inter-municipal one: in 2002 a NUTS-2 level Regional Council was established. The members of the Regional Councils are the delegates of the 14 second tier local government, the NUTS-3 level county governments (*kraje*). The Regional Councils could be considered as special inter-municipal cooperation and the managing authorities are the bodies of these regional organisations. The hybrid element of the Czech system is the centralised planning procedure and the supervisory competences of the central government.³⁸

A similar model has evolved in *Latvia* — which has a one-tier municipal system — where the Regional Development Law of 2002 established special, hybrid bodies in the planning regions.³⁹

4.5. Failed regional reforms in Eastern Central Europe

The regionalisation as trend strongly impacted the reform of the post-socialist states. As I have mentioned earlier, in Poland a successful regional reform was executed in the end of the 1990s. Stimulated by

³⁷ F. Teles, *Local Governance and Inter-municipal Cooperation*, Basingstoke (UK), New York (NY, USA), 2016, pp. 63–64.

³⁸ S. Kadečka, 2012, pp. 124–127.

³⁹ M. Tatham, *With, Without or Against the State? How European Regions Play the Brussels Game*, Oxford, 2016, p. 261.

the regional development system of the EU several Eastern Central European countries planned regional reforms. The failure of the majority of these reforms have multiple reasons. The Hungarian reforms failed because the lack of the political consensus and will which was based on the historical traditions. In Hungary the regionalisation has had not real traditions, therefore the top bottom nature of these reform attempt was very strong.⁴⁰

In Romania the failure of the reform has different reasons. Although Romania has strong regional traditions (Romania has three traditional regions: Wallachia, Moldavia and Transylvania) the regional reforms which focused on the development issues failed. The main reason of the failure was based on the principle of the unitary state in Romania. The Constitutional Court of Romania highlighted, that the regionalisation — especially the formation of regions for the autonomy of ethnic minorities — could harm the principle of the unitary state.⁴¹

5. HYBRID SOLUTIONS: BETWEEN REGIONALISATION AND FEDERALISM

The regional reforms in Europe have different outputs. In several countries the transfer from the central to the regional governments were more significant. In these countries several key competences of the central governments were regionalised, as well. Therefore the competences of the regional units are close to the competences of a member states of the federation. Although these units are very similar to the member states, the classification is not obvious. In several cases the concept of the unitary state prevail in the national constitution, and in other cases the state nature is questionable. Thus this model can be interpreted as a *transitional* one.

⁴⁰ I. Pélné Kovács, *op. cit.*, 2014, pp. 100–102.

⁴¹ G. Condurache, *Regionalisation in Romania*, [in] *Local Autonomy in the 21st century. Between Tradition and Modernisation / L'autonomie locale au XXI^e siècle. Entre tradition and modernisation*, red. S. Guérard, A. Astrauskas, Lille, 2016, pp. 88–89.

5.1. A “quasi” or “de-facto” federation and the regional development: Spain

The regional development system of *Spain* can be interpreted as this quasi-federative model. After the Fall of the Franco regime, during the Democratic Transition the Spanish Constitution of 1978 introduced a strongly decentralised model. The model of this constitution was based on an asymmetric devolution model. The autonomy of the regional entities – the *comunidad autonoma* – was recognised by the Constitution, but their exact tasks and powers should be defined by the statutes of these autonomies which are organic laws (*ley Orgánica*). Several *comunidad autonoma* have special status, especially in the field of cultural autonomy and in the field of the official language of the region. Thus Catalonia (*Cataluña / Catalunya*), the Basque Country (*Pais Vasco / Euskadi*) and Galicia have special rights: their regional language is an official language. Formerly these regions had larger autonomy in the field of taxation, public services, regional planning and development,⁴² but the asymmetry of the Spanish regional system has decreased in the last decades. Now the special autonomy of the policing and the regional language as official language has remained as the major element of the special status of these regions. Thus the Spanish regional reforms were interpreted as a top-down federalisation, and the *Estado de las Autonomías* (literally translate: State of the Autonomies) as a federative system.⁴³ Although the wide competences of the regions the Spanish administrative system could not be interpreted as a federal one. The concept of the unitary state is declared by the Spanish Constitution. Therefore the regions are interpreted as *regional municipalities with wide competences* by the Spanish Constitutional Court – by which the referendum on the independence of Catalonia was declared unconstitutional.⁴⁴

⁴² J Rodríguez-Arana, *Derecho Administrativo Español. Tomo I. Introducción al Derecho Administrativo Constitucional*, Olieros, 2008, pp. 207–208.

⁴³ L. Moreno, *The Federalization of Spain*, London (UK), Portland (OR, USA), 2001, pp. 2–4.

⁴⁴ A. Elisenda Casanas, F. Rocher, *(Mis)recognition in Catalunya and Quebec: The Politics of Judicial Containment*, [in] *Constitutionalism and the Politics of Accommodation in Multinational Democracies*, red. J. Lluçh, Basingstoke (UK), 2014, pp. 27–28.

Thus the Spanish regions are interpreted legally as municipal entities, but their tasks and powers are similar to the member states of the federations. Therefore Spain has a *quasi-federative model*.

5.2. An asymmetrical quasi federation (?): the United Kingdom

Before the reforms of the 90s the United Kingdom was a relatively centralised state. The 2nd tier local governments, the counties have several regional planning and development competences but these tasks belonged mainly to the powers of the central government. After the EU Accession of United Kingdom regional reforms occurred. These regional reforms were based on deconcentrating the central powers: the regional bodies were practically agencies of the central government. Such regional agencies were the Government Offices for the (English) Regions (GOR) which were organised in England in 1994 and they were primarily responsible for regional planning and development.⁴⁵

The traditional British system has been transformed by the *devolution* process. The devolution is similar to the concept of the *decentralisation*, but it is partly different.⁴⁶ Firstly, the devolution had different meanings. In the first phase of the devolution, several competences were transferred to the constituent nations of the United Kingdom. Thus the establishment of the legislative bodies and governments of Scotland, Wales and Northern Ireland was interpreted as the devolution of the United Kingdom. This devolution was an asymmetric one: the powers and duties of these legislative bodies and governments are different. Such regional legislative bodies and governments have not been established in England, the powers and duties of these bodies are fulfilled by the Parliament and the Government of the United Kingdom.

⁴⁵ J. Shutt, *Appraising Europe in the Regions 1994–1999: A Case Study of Recent Experiences in Yorkshire and Humberside*, [in] *Regional Development Strategies. A European Perspective*, red. J. Alden, P. Boland, London (UK), Bristol (UK), 1996, p. 92.

⁴⁶ See more: A. Cole, *Beyond devolution and decentralisation. Building regional capacity in Wales and Brittany*, Manchester (UK), 2006, pp. 1–3., C. Copus, M. Roberts R. Wall, *op cit.* 2017, pp. 12–13 and Siket J., *A helyi-területi önkormányzatok közigazgatási autonómiája Magyarországon. PhD Dissertation.* Szeged, 2017, pp. 133–135.

The regional planning and development tasks in Scotland, Wales and Northern Ireland are performed by these bodies. The newly organised legislative bodies and governments have very wide powers which are very similar to the member states of the federations. But the United Kingdom was considered as a “quasi-federation” because traditionally the statehood of these units were not recognised.⁴⁷ This approach partly changed when Scotland had the opportunity to hold a referendum on the independence. Thus practically the Scottish statehood was recognised by the permissive act of the Parliament of the United Kingdom.⁴⁸

The transfer of powers to the constituent nations of the United Kingdom and thus the “federalisation” of Great Britain is interpreted as a devolution of the British government system. However the (top-bottom) strengthening of the English municipalities (especially the counties and the unitary councils and partly the districts) is a part of the devolution.⁴⁹ The different meanings of the devolution the British system can be considered as a *transitive* one. If Scotland, Wales and Northern Ireland are interpreted as regional entities then it is relatively decentralised, because these units have wide development competences. The British jurisprudence is afraid of the “F word”, the “Federalisation” in British constitutional law, but if the constituent nations could be considered as member states of a federation than the model of the United Kingdom can be interpreted as a centralised, asymmetrical federal system.

These hybrid systems have evolved on the border of the municipal and federal models. Although the blurring boundaries between self-governance and statehood can be illustrated by these models, but the Spanish regulation shows that the major element of the classification is the constitutional regulation. Although Spain could be interpreted as a quasi-federation, the Spanish regions have broad competences but they are classified by the Constitution as regional municipalities, therefore they do not have statehood. In the United Kingdom, the reforms at

⁴⁷ M. Burgess, *Comparative Federalism. Theory and practice*, London (UK), New York (NY, USA), 2006, p. 131.

⁴⁸ A. McHarg, *The Constitutional Case of Independence*, [in] *The Scottish Independence Referendum. Constitutional and Political Implications*, red. A. McHarg, T. Mullen, A. Page, N. Walker, Oxford, 2016, pp. 102–104.

⁴⁹ C. Copus, M. Roberts R. Wall, *op. cit.* 2017, pp. 12–14.

the end of the 20th century transformed the state significantly: as it is shown by the Scottish referendum, these entities could be interpreted as member states of a federation.

6. CONCLUSION

It can be concluded that the differences of decentralised and federal systems have remained, but several transformations could be observed and in several countries the model of the administration changed in the last decades. A convergence or hybridisation of the models can be observed: the competences of the municipal bodies have been strengthened. Firstly the municipal bodies received new competences, especially in the field of the regional planning. In several countries the former central agencies transformed into inter-municipal bodies. Secondly, in the decentralised countries the coordination competences of the central government have been strengthened. These changes were strongly impacted by the regulation on the EU funds and by the EU cohesion and regional policy. Although the boundaries between municipalities and member states of the federation have blurred in the governance of these entities, but the legal distinction between them remained solid: the regional municipalities with broad competences do not have statehood.

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